

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

SECOND AMENDMENT ARMS, )  
(a d/b/a of R. Joseph Franzese), )  
R. JOSEPH FRANZESE, individually )  
and d/b/a SECOND AMENDMENT ARMS, )  
ROBERT M. ZIEMAN, SR., ICARRY, )  
an unincorporated Association (and d/b/a of )  
Shaun Kranish), SHAUN KRANISH, )  
individually and d/b/a ICARRY, and )  
TONY KOLE, )

Plaintiffs, )

v. )

CITY OF CHICAGO, a municipal )  
corporation, RAHM EMANUEL, in )  
his official capacity as Mayor of the )  
City of Chicago, GARRY McCARTHY, )  
Superintendent of Police of the City of )  
Chicago and SUSANA MENDOZA, )  
City Clerk of the City of Chicago, )

Defendants. )

Civil Case No: 1:10-cv-4257

Hon. Robert M. Dow, Jr.  
U.S. District Court Judge

Hon. Sheila M. Finnegan  
U.S. Magistrate Judge

PLAINTIFFS' RESPONSE  
TO DEFENDANTS' MOTION TO STRIKE  
AND MOTION FOR LEAVE TO FILE MEMORANDUM *INSTANTER*

NOW COMES Plaintiffs, by and through their attorney, Walter P. Maksym, Jr., and submit the following response to Defendants' Motion to Strike, and seeks leave to file their Memorandum in Opposition to Defendants' Memorandum in Support of Their Motion to Dismiss Counts I, III, and VIII-XVIII of the Second Amended Complaint *insanter*:

1-3. Plaintiffs admit paragraph 1 - 3 of Defendants' Motion.

4. On December 28, 2011 Plaintiffs' counsel inadvertently uploaded and misfiled their previously filed Memorandum in Opposition to Dismiss Plaintiffs Amended Complaint rather than their Memorandum in Opposition to Defendants' Memorandum in Support of Their

Motion to Dismiss Counts I, III, and VIII-XVIII of the Second Amended Complaint which is tendered herewith for filing *instanter*.

5. Plaintiffs admit paragraph 5 of Defendants' Motion.

6. Plaintiffs therefore request leave to withdraw the inadvertently re-filed Memorandum filed on December 28, 2011 and for leave to file their Memorandum in Opposition to Defendants' Memorandum in Support of Their Motion to Dismiss Counts I, III, and VIII-XVIII of the Second Amended Complaint which is tendered herewith for filing *instanter*.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully pray that this Court grant them leave to withdraw the inadvertently re-filed Memorandum filed on December 28, 2011 and grant leave to file their Memorandum in Opposition to Defendants' Memorandum in Support of Their Motion to Dismiss Counts I, III, and VIII-XVIII of the Second Amended Complaint tendered herewith *instanter*, set a date for Defendants to file a Reply thereto and grant them such other and further relief as it may deem just and proper in the premises.

Respectfully submitted,

/s/ Walter P. Maksym, Jr.  
Walter P. Maksym, Jr., Plaintiffs' Attorney

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